

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hochstetler et al.

Serial No.: 10/673,895

Group Art Unit: 1657

Filed: September 29, 2003

Examiner: Afremova, Vera

For: DETECTION OF LIVING CELLS IN POLYMERS OR PIGMENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

The Examiner has required Applicants to elect one of 8 groups of claims for examination. In response to the restriction requirement, Applicants provisionally elect the claims of Group I (claims 1-17), drawn to a method for releasing ATP from living cells with a disruption agent. Applicants' election, however, is made with traverse.

MPEP §803 states that an application may be properly restricted to one or more claimed inventions only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner if restriction is not required. Thus, even if appropriate reasons exist for requiring restriction, such a requirement should not be made unless there is an undue burden on the Examiner to examine all the claims in a single application. Here, it would appear that the searches involved for the claims would be coextensive. As such, it is not believed to be a serious burden on the Examiner to examine all the claims. Accordingly, for at least all of the reasons set forth above, withdrawal of the restriction requirement is requested. Applicants, however, reserve the right to file a divisional application should the restriction requirement be made final.

Applicants believe the application to be in proper form for examination. Examination on the merits is therefore respectfully requested.

Docket: 80043 US01

PATENT

Eastman Chemical Company
P.O. Box 511
Kingsport, Tennessee 37662
Phone: (423) 229-6427
FAX: (423) 229-1239

Respectfully submitted,

/Eric D. Middlemas/
Eric D. Middlemas
Registration No. 53,325

April 22, 2007
Date